SINGAPORE REPORTS

JB Jeyaretnam v Attorney General of Singapore

COURT OF APPEAL (SINGAPORE) – CIVIL APPEAL NO 66 OF 1987
THEAN, CHAN SEK KEONG AND RAJAH JJ
15 DECEMBER 1988

Administrative Law – Natural justice – Complaints of abuse of privileges and contempt of Parliament – Proceedings before Committee of Privileges and in Parliament – Whether oral hearing required to be given – Whether court may inquire into allegation of non-compliance with rules of natural justice – Whether further hearing required to be given before punishment imposed – Parliament (Privileges, Immunities and Powers) Act (Cap 217, 1985 Ed), s 24

Parliament – Abuse of privileges – Contempt of Parliament – Powers of Parliament to punish – Whether findings of abuse of privileges and contempt may be reviewed by court – Whether complaints properly referred to Committee of Privileges of Parliament – Constitution of Singapore, art 163 – Parliament (Privileges, Immunities and Powers) Act (Cap 217, 1985 Ed), ss 3(1), 20(1) & (2), 21(1) & 24

The appellant was at the material time a member of Parliament. Two complaints were made in Parliament against the appellant, which complaints were then referred to the Committee of Privileges ('the committee'). The committee determined the complaints and submitted a report to Parliament. Parliament accepted the report and passed two resolutions finding the appellant, in respect of the first complaint, guilty of abuse of the privileges of Parliament in his allegations of executive interference in the judiciary and imposing a fine of $1,000, and in respect of the second complaint, guilty of contempt of the committee and of Parliament by his publication of five newsletters relating to the proceedings of the committee and imposing a fine of $5,000 for each newsletter, making a total of $25,000. The appellant refused to pay the fines and the Attorney General acting under s 23 of the Parliament (Privileges, Immunities and Powers) Act (Cap 217, 1985 Ed) ('the Act') on behalf of the government of Singapore instituted two actions in the subordinate courts, namely, MC Suit No 2339 of 1987 claiming for the sum of $1,000 and DC Suit No 1451 of 1987 claiming for the sum of $25,000. Later the Attorney General took out an application for summary judgment in each action for the amount claimed. The registrar ordered that judgments be entered for the respective amounts against the appellant with costs. The appellant's appeal in each of the cases to the High Court was dismissed by Chua J: see [1988] 3 MLJ 465. The appellant then appealed to the Court of Appeal.

The question before the Court of Appeal was whether there was any triable issue either of fact or of law in the defences raised by the appellant. In MC Suit No 2339 of 1987 the only defence raised by the appellant was that there was a breach of the rules of natural justice on the part of the committee and Parliament. In DC Suit No 1451 of 1987 the appellant raised three defences, namely:

(i) the committee was wrong in law in finding that the appellant was guilty of contempt of the committee and of Parliament and that even if the offending newsletters were perverted reports and contained distortions and serious misrepresentations, they could not and did not amount to contempt of the committee or of Parliament, and that Parliament was wrong in accepting the report of the committee and passing the second resolution as it did;
(ii) that Parliament was not empowered by law to impose the fines by way of punishment and therefore acted in excess of its authority in so doing; and
(iii) that there was a breach of the rules of natural justice in the proceedings before the committee and in the proceedings in Parliament in that the appellant was not given an opportunity to be heard.

It was also argued by the appellant that the publication of the newsletters was not an offence committed in the view of Parliament or in the precincts thereof when Parliament was sitting or in any committee and did not come within s 21(1)(c) of the Act, and therefore Parliament could not refer the matter to a committee under s 21(1)(b) of the Act. He contended that if the publication was an offence it was one under s 31(h) of the Act and that Parliament must act under s 21(1)(c) of the Act and pass a resolution referring the matter to the Attorney General with a view to the institution of criminal proceedings.

The appellant in his defence complained of the composition of the committee and further that he was denied an impartial and fair hearing before the committee; that he was not allowed to present adequately his case and was continuously interrupted; and that he was not permitted to put a number of questions to the Chief Justice and to cross-examine the Attorney General.

Held, dismissing the appeal:

(1) Under art 163 of the Constitution of Singapore, Parliament is empowered by law to determine and regulate its privileges, immunities and powers and pursuant to that provision enacted the Parliament (Privileges, Immunities and Powers) Act which by s 3(1) thereof confers on Parliament and the Speaker, members and committees of Parliament, the same privileges, immunities and powers as those of the Commons House of Parliament of the United Kingdom and of its Speaker, members and committees as at the time of the establishment of the Republic of Singapore. One of such privileges and powers is that of committing for contempt and such privileges and powers include the right of finding for itself what constitutes contempt and the right to commit members and others for contempt and punish them accordingly. The ingredients of Parliament judging the contempt and committing for contempt are important ingredients in the privileges of Parliament. In addition, there are other powers conferred on Parliament by the Act. In particular, s 20(2) of the Act empowers Parliament to inflict punishment on any member for dishonourable conduct, abuse of privilege or contempt by, inter alia, imposing a fine not exceeding the sum of $50,000.

(2) The resolutions of Parliament were conclusive and it was not open to the court to go beyond those resolutions and determine the same issues.

(3) Section 21(1) of the Act did not apply to the complaint concerning the newsletters because the offence was committed when neither Parliament nor the committee was sitting. The proper procedure, as had been invoked here, was that provided by Standing Order 95(7)(c) of Parliament pursuant to which the complaint was made to the Speaker who referred it to the committeee.

(4) Under s 20(1) of the Act, Parliament had the power to impose the fines as it did on the appellant by way of punishment for abuse of privilege and contempt.

(5) In regard to the complaint of abuse of privileges, the appellant himself appeared before the committee and participated in the proceedings and was heard. There was, therefore, no breach of the rules of natural justice. The complaints of the appellant regarding the composition of the committee and the proceedings before the committee related to the internal proceedings of the committee. Parliament and its committee have the right to regulate and control their proceedings and to regulate their internal affairs. Whatever arises in and concerning Parliament and its committee ought to be examined, discussed and adjudged in Parliament.

(6) In regard to the complaint regarding the newsletters, a copy of the complaint was referred to the appellant and he was invited to give a reply thereto. He wrote to the chairman of the committee a detailed reply to the complaint. In these circumstances, there was also no breach of the rules of natural justice. The appellant was given full opportunity of stating his case to the committee which he did. The rules of natural justice do not require that a hearing must be an oral hearing.

(7) As regards the appellant's complaint that he was not given an opportunity to be heard by Parliament before the two resolutions were passed, there was nothing in law to suggest that the appellant should be given another opportunity to be heard before the punishments were inflicted on him by Parliament. Under s 24 of the Act, Parliament could have summoned the appellant to attend before it to be informed of or to receive the punishments, if Parliament so wished; but in this case Parliament decided not to do so, and was clearly entitled so to decide.

Cases referred to

1 *Dill* v *Murphy* 1 Moore NS 487; 15 ER 784 (refd)
2 *The Speaker of the Legislative Assembly of Victoria* v *Hugh Glass* (1869-71) 3 LRPC 560 (folld)
3 *The Case of the Sheriff of Middlesex* 11 Ad & E 273; 113 ER 419 (refd)
4 *The Queen* v *Richards, ex parte Fitzpatrick & Browne* (1955) 92 CLR 157 (folld)
5 *Kielley* v *Carson* 4 Moore's PC cases 63; 13 ER 225 (refd)
6 *Fenton* v *Hampton* 11 Moore's PC cases 347; 14 ER 727 (refd)
7 *Doyle* v *Falconer* IV Moore's NS 203; 16 ER 293 (refd)
8 *Bradlaugh* v *Gossett* (1884) 12 QBD 271 (refd)
9 *Najar Singh* v *Government of Malaysia* [1976] MLJ 203 (folld)

Legislation referred to

Constitution of Singapore, arts 93, 163
Parliament (Privileges, Immunities and Powers) Act (Cap 217, 1985 Ed) ss 3, 20(1), (2), 21(1), 23, 24, 25, 31(h)
Constitution of Australia s 49

Appeal from: Summons-in-Chambers No 3268/87 (DC Suit No 1451 of 1987), High Court (Singapore).

Appellant in person.
Fong Kwok Jen (*Soh Tze Bian* with him) for the respondent.

Cur Adv Vult

Thean J (delivering the judgment of the court): The appellant was at the material time a member of Parliament. On 27 January 1987, Parliament, inter alia, passed two resolutions as follows:

First resolution

That this Parliament doth agree with the Committee of Privileges in their first report contained in Paper Parl 3 of 1987 and resolves:

(1) that Mr JB Jeyaretnam is guilty of abuse of the privileges of Parliament in his allegations of executive interference in the judiciary; and
(2) that a fine of $1,000 be imposed upon him.

Second resolution

That this Parliament doth agree with the Committee of Privileges in their second report contained in Paper Parl 4 of 1987 and resolves:

(1) that Mr JB Jeyaretnam is guilty of contempt of the Committee of Privileges and of Parliament by his publication of the five offending newsletters relating to the proceedings of the Committee of Privileges between 8 and 12 September 1986; and
(2) that a fine of $5,000 for each of the five offending letters be imposed upon him.

Pursuant to these resolutions the Clerk of Parliament demanded from the appellant payment of the sums of $1,000 and $25,000 respectively. The appellant, however, refused to make any payment. In consequence, the Attorney General, the respondent, acting under s 23 of the Parliament (Privileges, Immunities and Powers) Act (Cap 217, 1985 Ed) on behalf of the government of Singapore instituted two actions in the subordinate courts, namely, MC Suit No 2339 of 1987 claiming for the sum of $1,000 and DC Suit No 1451 of 1987 claiming for the sum of $25,000. After the commencement of the actions, the respondent took out an application for summary judgment in each action for the amount claimed. The applications were heard before the registrar, and he ordered that judgments for the respective amounts be entered against the appellant with costs. The appellant appealed against the decisions of the registrar, and the appeals came before Chua J. At the hearing before Chua J only the appeal in DC Suit 1451 of 1987 was argued, as it was agreed that the result of the appeal in MC Suit 2339 of 1987 would follow that of the former. The learned judge at the conclusion of the hearing dismissed both the appeals. Against the decisions of the learned judge, this appeal is now brought.

The question before us is whether there is any triable issue either of fact or of law in the defences raised by the appellant. In MC Suit No 2339 of 1987 the only defence raised by the appellant is that there was a breach of the rules of natural justice on the part of the Committee of Privileges ('the committee') and Parliament. The appellant in DC Suit No 1451 of 1987 raised three defences and they are as follows:

(i) The committee was wrong in law in finding that the appellant was guilty of contempt of the committee and of Parliament by his publication of the five

newsletters relating to the proceedings of the committee between 8 and 12 September 1986. The five offending newsletters, even if they were perverted reports and contained distortions and serious misrepresentations, cannot and do not amount to contempt of the committee or of Parliament. Accordingly, Parliament was wrong in accepting the report of the committee and passing the second resolution as it did.

(ii) Parliament was not empowered by law to impose the fines by way of punishment and therefore acted in excess of its authority in so doing.

(iii) There was a breach of the rules of natural justice in the proceedings before the committee and in the proceedings in Parliament in that the appellant was not given an opportunity to be heard.

Before we consider these defences seriatim it is necessary to recount briefly the events that led to the imposition of the fines on the appellant by Parliament. On 19 March and 30 July 1986 the Leader of the House complained in Parliament of the appellant's allegations made in Parliament of executive interference in the judiciary, and the complaints were then referred to the committee. The complaints were subsequently set out in detail in a memorandum which was sent to the Clerk of Parliament on 19 August 1986 and a copy of which was transmitted to the appellant. The committee sat in September 1986 for five days and while the hearing was in progress the appellant wrote and sent to the residents of his constituency daily a newsletter purporting to be a report on the daily proceedings of the committee; in toto there were five newsletters. In consequence, on 9 October 1986 the Leader of the House made another complaint to the Speaker of the House in respect of these five newsletters. The Speaker on 18 October 1986 wrote to the appellant forwarding a copy of the complaint stating that the complaint appeared to establish a prima facie case of contempt of the committee and of Parliament, and requesting that a reply from the appellant, should he wish to reply, be submitted before the committee met again. By his letter of 10 November 1987 addressed to the chairman of the committee (who was also the Speaker), the appellant replied to the complaint. The committee determined the two complaints and made its reports to Parliament. On 27 January 1987 Parliament accepted the reports and passed the two resolutions finding the appellant, in respect of the first complaint, guilty of abuse of the privileges of Parliament in his allegations of executive interference in the judiciary and imposing a fine of $1,000, and in respect of the second complaint, guilty of contempt of the committee and of Parliament by his publication of the five offending newsletters relating to the proceedings of the committee between 8 and 12 September 1986 and imposing a fine of $5,000 for each of the five offending letters, making a total of $25,000.

We now turn to consider the defences raised, and we propose to consider the first two defences raised in DC Suit No 1451 of 1987, and thereafter the defence of breach of the rules of natural justice which was raised in both the suits. In considering these two defences it is necessary to examine first the legal basis on which Parliament exercises its jurisdiction to punish its members and, for that matter, others for contempt, and secondly, the jurisdiction of the courts to investigate and determine what Parliament has already determined and resolved upon as contempt. The starting point is of course the Constitution of Singapore and art 163 thereof provides:

> It shall be lawful for the legislature by law to determine and regulate the privileges, immunities or powers of Parliament.

Pursuant to this provision the Parliament (Privileges, Immunities and Powers) Act ('the Act') was passed, and s 3 thereof (as amended subsequently), in so far as relevant, provides:

> 3(1) The powers, privileges and immunities of Parliament and of the Speaker, Members and Committees of Parliament shall be the same as those of the Commons House of Parliament of the United Kingdom and of its Speaker, Members or Committees at the establishment of the Republic of Singapore.
>
> (2) Such privileges, immunities and powers shall for all purposes be construed and have effect as if such privileges, immunities and powers were prescribed by this Act, and it shall not be necessary in any proceedings to plead the same but the same shall be judicially noticed in all the courts.
>
> (3) ...

Provision in terms similar to that of s 3(1) of the Act had been the subject of judicial interpretation more than a hundred years ago in the case of *Dill* v *Murphy*.[1] There, the legislative assembly of Victoria was constituted by the Colonial Act 1854 which was ratified and set out in the Schedule to the Imperial Act of Parliament, 18 & 19 Vict c 55. By s 35 of the Act of 1854 it was enacted, among other things, that it should be lawful for the legislature by any Act to define the privileges, immunities and powers to be held, enjoyed and exercised by the council and assembly, and by members thereof respectively, subject, however, to the proviso that no such privileges, immunities and powers should exceed those held, enjoyed and exercised by the Commons House of Parliament of Great Britain and Ireland or the members thereof. Pursuant to that provision an Act, 20 Vict No 1, was passed by the colonial Parliament which provided that the legislative council and the legislative assembly of Victoria respectively and the committees and members thereof respectively should hold, enjoy and exercise such and the like privileges, immunities and powers as, at the time of the passing of the Act of 1854, were held, enjoyed and exercised by the Commons House of Parliament of Great Britain and Ireland, and by the committees and members thereof. One George Dill published a number of the *Argus* newspapers containing an article on the

subject of the police committee of the legislative assembly, in respect of which the assembly of Victoria resolved that the article was 'a scandalous breach of the privileges of this House', and he was ordered to attend the assembly which he failed to do. In consequence the assembly resolved: 'That George Dill, having been ordered to attend this House this day and not attending in obedience to such order, is guilty of a contempt and that he be sent for in the custody of the Serjeant-at-Arms and that Mr Speaker do issue his warrant accordingly.' Pursuant to that resolution a warrant was issued and George Dill was taken into custody and detained. He challenged the detention by a writ of habeas corpus but was unsuccessful. Subsequently, he was released from custody by the order of the legislative assembly upon payment of certain fees to the Serjeant-at-Arms. Thereafter, he commenced an action against the Speaker and Sergeant-at-Arms for assault and false imprisonment. It was held by the Supreme Court of Victoria that the Commons House of Parliament had the power to commit for contempt by virtue of ancient usage and prescription and that this power had by the Act of 1854 and the Act, 20 Vict No 1, been conferred on the legislative assembly. Stawell CJ in his judgment said, at pp 497-498:

> ... The Commons acquired the power of committing for contempt, 'not because it is a representative body with legislative functions, but by virtue of the ancient usage and prescription': *Keilley* v *Carson* (4 Moore's PC cases, 89). But the question is not how the House acquired such a power, but whether it was held and exercised within the meaning of the 35th section and at the time specified. The judgment in *Burdett* v *Abbott* (14 East, p 137) seems so peculiarly apposite to the present case, more especially respecting the necessity for the exercise of the power of commitment for contempt by Parliament, not as a court, but as a deliberative Assembly, that an extract may be allowed: 'The privileges which belong to them seem at all times to have been, and necessarily must be, inherent in them, independent of any precedent.'

Later he said, at p 498:

> ... Thus, then, although the power of commitment for contempt may have been first acquired by Parliament as a court, and is held by ancient usage and prescription, yet its retention and exercise are deemed of importance to them as a deliberative Assembly; and a general authority to assume this, or other like privileges, has been, therefore, conferred on the local legislative bodies.

On appeal, the Privy Council held that the colonial Parliament had clearly defined the privileges claimed and could not have done so in a way more convenient than in the manner as provided in s 35 and that the word 'define' in s 35 is equivalent to 'declare'. The decision, in effect, was that the privileges, immunities and powers as were at the material time held, enjoyed and exercised by the Commons House of Parliament of Great Britain and Ireland had been transferred to the legislative assembly by reason of the statutory provisions.

This point was made even clearer by the next case that came before the Privy Council a few years later touching on the same statutory provisions, namely, *The Speaker of the Legislative Assembly of Victoria* v *Hugh Glass*.[2] In that case, the legislative assembly of Victoria resolved that one Glass was guilty of contempt and breach of the privileges of the House and that the Speaker should issue a warrant committing him into custody. Accordingly, a warrant was issued and Glass was taken into custody. He then obtained a writ of habeas corpus and upon the return of the writ the Supreme Court of Victoria ordered his discharge. The warrant by which Glass was taken into custody was in general terms stating that the legislative assembly had resolved that Glass was guilty of contempt and a breach of the privileges of the assembly. Before the Privy Council the question was whether the legislative assembly of Victoria had under the Imperial Constitutional Act, 18 & 19 Victoria c 55, s 35 and the Colonial Act, 20 Vic No 1, the same powers as the British House of Commons to commit for contempt under a general warrant. It was there held that the legislative assembly had the same powers and privileges as the British House of Commons had at the time of the passing of the 18 & 19 Victoria c 55 of committing for contempt and had the right of judging for itself what constituted contempt and of ordering the commitment to prison of a person adjudged by the assembly to have been guilty of contempt and breach of privilege by a general warrant. It is instructive to quote in extenso the following passage from the judgment of Lord Cairns, at pp 572-573:

> *Beyond all doubt, one of the privileges – and one of the most important privileges of the House of Commons – is the privilege of committing for contempt; and incidental to that privilege, it has, as has already been stated, been well established in this country that the House of Commons has the right to be the judges themselves of what is contempt*, and to commit for that contempt by a warrant, stating that the commitment is for contempt of the House generally, without specifying what the character of the contempt is. It would, therefore, almost of necessity follow, that the legislature of the colony having been permitted to carry over to the colony the privileges, immunities, and powers of the House of Commons, and having in terms carried over all the privileges and powers exercised by the House of Commons at the date of the statute, there was carried over to the legislative assembly of the colony the privilege or power of the House of Commons connected with contempt – the privilege or power, namely, of committing for contempt, of judging itself of what is contempt, and of committing for contempt by a warrant stating generally that a contempt had taken place. It has, however, been argued before us that the privilege is the privilege of committing for contempt merely; that the judging of contempt without appeal, and the power of committing by a general warrant, are mere incidents or accidents applicable to this country, and not transferred to the colony. Their Lordships are entirely unable to accede to this argument. They consider that there is an essential difference between a privilege of committing for contempt such as would be enjoyed by an inferior court, namely, privilege of first determining for itself what is contempt, then of stating

the character of the contempt upon a warrant, and then of having that warrant subjected to review by some superior tribunal, and running the chance whether some superior tribunal will agree or disagree with the determination of the inferior court, and the privilege of a body which determines for itself, without review, what is contempt, and acting upon the determination, commits for that contempt, without specifying upon the warrant the character or the nature of the contempt. The privileges, their Lordships think, as thus stated, are essentially different. The latter of the two privileges is a higher and more important one than the former. *The ingredients of judging the contempt, and committing by a general warrant, are perhaps the most important ingredients in the privileges which the House of Commons in this country possesses*; and it would be strange indeed if, under a power to transfer the whole of the privileges and powers of the House of Commons, that which would only be a part, and a comparatively insignificant part, of this privilege and power were transferred. (emphasis added)

Returning to the instant case, it is clear to us that under art 163 of the Constitution, Parliament is empowered by law to determine and regulate its privileges, immunities and powers, and pursuant to that provision enacted the Act which by s 3(1) thereof confers on Parliament and the Speaker, members and committees of Parliament the same privileges, immunities and powers as those of the Commons House of Parliament of the United Kingdom and of its Speaker, members and committees as at the time of the establishment of the Republic of Singapore. One of such privileges or powers is that of committing for contempt and such privileges and powers include the right of judging for itself what constitutes contempt and the right to commit members and others for contempt and punish them accordingly. In the words of Lord Cairns, the ingredients of Parliament judging the contempt and committing for contempt are important ingredients in the privileges of Parliament.

In addition, there are other powers conferred by the Act, and these are contained in ss 12-30, and s 4 expressly provides that these powers are in addition to those conferred by s 3. In particular and for the purpose of these proceedings, we should mention s 20(2) which empowers Parliament to inflict punishment on any member for dishonourable conduct, abuse of privilege or contempt by, inter alia, imposing a fine not exceeding the sum of $50,000.

By the first defence raised in DC Suit No 1451 of 1987 (which we have set out) the appellant is asking the court to investigate and determine the complaints of abuse of privilege and contempt which had been investigated and determined by the committee, and on which complaints the committee had submitted its reports to Parliament. Parliament at its sitting on 27 January 1987 had resolved that the appellant was guilty of abuse of the privileges and contempt of the committee and of Parliament and imposed the fines on the appellant. In our opinion, these resolutions of Parliament are conclusive, and it is not open to the court to go behind these resolutions and determine the same issues. Parliament has the right of judging for itself what constitutes abuse of privilege and contempt; the decision in *Glass*[2] is a clear authority on the point.

It would also be helpful to examine an earlier case decided by the Court of King's Bench in 1840, namely, *The Case of the Sheriff of Middlesex*.[3] There, the House of Commons resolved that William Evans and John Wheelton, Sheriff of Middlesex, had levied execution in contempt of the privileges of the House and that they should be ordered to refund the amount, which, however, they refused. Subsequently, the House resolved that Evans and Wheelton, having been guilty of contempt and breach of the privileges of the House, be committed to the custody of the Serjeant-at-Arms, and a warrant was issued reciting generally that they having been guilty of contempt and breach of the privileges of the House be committed to custody and directing the Sergeant-at-Arms to take them into custody. They thereupon applied to the Court of King's Bench for a writ of habeas corpus ad subjiciendum. The main contention raised by the applicants was that the warrant did not set out the facts constituting the alleged contempt and that the form of warrant only generally averred contempt and breach of the privileges of the House. The court held that the warrant in that general form, without setting out the facts, was good and that it could not inquire by affidavit into the merits of the commitment, even if the case fell within the Habeas Corpus Act. Lord Denman CJ in the course of his judgment said, at p 288:

> ... In *The Earl of Shaflesbury's* case (6 How St Tr 1269; 1 Mod 144), the form was general; and it was held unnecessary to set out the facts on which the contempt arose. That case is open to observation on other grounds; but I think it has not been questioned on this. In *Regina* v *Paty* (2 Ld Ray 1105), three of the judges adopted the doctrine of that case to the extent of holding that the court could not inquire into the ground of commitment, even when expressed in the warrant. Holt CJ differed from them on that point; but he did not question that, where the warrant omitted to state facts, the cause could not be inquired into. In *Murray's* case (1 Wils 299), which has often been referred to, and recognized as an authority, the warrant was in a general form. There is, perhaps, no case in the books entitled to so great weight as *Burdett* v *Abbot* (14 East 1), from the learning of the counsel who argued and the judges who decided it, the frequent discussions which the subject underwent, and the diligent endeavours made to obtain the fullest information upon it. The judgment of Lord Ellenborough there, as it bears on the point now before us, is remarkable. *He says, 'If a commitment appeared to be for a contempt of the House of Commons generally, I would neither in the case of that court, or of any other of the superior courts, inquire further:* but if it did not profess to commit for a contempt, but for some matter appearing on the return, which could by no reasonable intendment be considered as a contempt of the court committing, but a ground of commitment palpably and evidently arbitrary, unjust, and contrary to every principle of posi-

tive law, or national justice; I say, that in the case of such a commitment (if it ever should occur, but which I cannot possibly anticipate as ever likely to occur) we must look at it and act upon it as justice may require from whatever court it may profess to have proceeded.' Bayley J, as well as Lord Ellenborough, appears in that case to have been of opinion that, if particular facts are stated in the warrant, and do not bear out the commitment, the court should act upon the principle recognized by Holt CJ in *Regina* v *Paty* (2 Ld Ray 1105); but that, if the warrant merely states a contempt in general terms, the court is bound by it. That rule was adopted by this court in *Rex* v *Hobhouse* (2 Chitt Rep 207). (emphasis added)

It is true that in that case the decision mainly established the validity of the general form of warrant under which Evans and Wheelton were taken into custody. In the instant case there is no form of warrant in issue as the appellant was not ordered to be taken into custody for contempt. It is significant, however, that the first resolution of the House of Commons there referred briefly to the contempt Evans and Wheelton committed, ie levying execution in contempt of the privileges of the House, and ordered them to refund the amount. As they refused to refund as ordered, a further resolution was passed by the House adjudicating that they had been guilty of contempt and breach of the privileges of the House and directing the Serjeant-at-Arms to take them into custody. Williams J had this to say in his judgment on the adjudication of contempt by the House (p 294):

... The only real question is, whether we can interfere because the ground of commitment is not particularly stated. On this point it is sufficient to cite the judgment of De Grey CJ in *Brass Crosby's* case (3 Wils 188), which is referred to with approbation by Lord Ellenborough in *Burdett* v *Abbot* (14 East 1, 148): *'When the House of Commons adjudge anything to be a contempt, or a breach of privilege, their adjudication is a conviction, and their commitment in consequence, is execution; and no court can discharge or bail a person that is in execution by the judgment of any other court.'* (3 Wils 199). De Grey CJ adds (3 Wils 202), that, the privilege being in that case brought in question directly, and not incidentally, the court cannot interfere. Whether or not, in the present instance, it was right to visit any person with the anger, or justice, of the House of Commons, is a question with which we have no concern. On grounds of law, the only grounds we have a right to proceed upon, we cannot order these gentlemen to be discharged. (emphasis added)

More recently and indeed more relevant in the context of the Constitution of Singapore is the Australian case of *The Queen* v *Richards, ex parte Fitzpatrick & Browne*.[4] There, Fitzpatrick and Browne were taken into custody by the Chief Commissioner of Police at Canberra in pursuance of warrants issued by the Speaker of the House of Representatives of the Parliament of Commonwealth of Australia. The warrants recited the resolution of the House that Fitzpatrick and Browne being guilty of serious breach of privilege be committed to the custody of the Chief Commissioner of Police. Fitzpatrick and Browne thereupon applied for writs of habeas corpus, and the case was referred to a full court of the High Court of Australia for determination, and the court dismissed the application. The statutory provision conferring the powers, privileges and immunities on the House of Representatives was found in s 49 of the Constitution which is in pari materia with s 3(1) of our Act and is in the following terms:

> The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

In the course of his judgment Dixon CJ said, at p 162:

> It is unnecessary to discuss at length the situation in England; it has been made clear by judicial authority. Stated shortly, it is this: it is for the courts to judge of the existence in either House of Parliament of a privilege, but, *given an undoubted privilege, it is for the House to judge of the occasion and of the manner of its exercise. The judgment of the House is expressed by its resolution and by the warrant of the Speaker.* If the warrant specifies the ground of the commitment the court may, it would seem, determine whether it is sufficient in law as a ground to amount to a breach of privilege, but if the warrant is upon its face consistent with a breach of an acknowledged privilege it is conclusive and it is no objection that the breach of privilege is stated in general terms. This statement of law appears to be in accordance with cases by which it was finally established, namely, the *Case of the Sheriff of Middlesex*. (emphasis added)

And later, he said, at pp 164-165:

> Now, if, under the law which we have attempted to describe, that warrant were produced to a court sitting in London, as we are here, as a warrant of the House of Commons, it would be regarded by the court as conclusive of what it states, namely, that a breach of privilege had been committed and that the House, acting upon that view, had directed that the two persons concerned should be committed and the Speaker, accordingly, had issued his warrant. In the ordinary phrase current in the law courts, it would not be possible to go behind that warrant. It states a contempt or breach of privilege in general terms, and not in particular terms, but it is completely consistent with a breach having occurred and it states that one did occur.
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> The question in the case is whether that state of the law applies under s 49 of the Constitution to the House of Representatives. If you take the language of the latter part of s 49 and read it apart from any other considerations, it is difficult in the extreme to see how any other answer could be given to the question than that that law is applicable in Australia to the House of Representatives. For s 49 says that, until the powers, privileges and immunities of the House are declared by Act of Parliament, the powers, privileges and immunities of the House shall be those of the Commons House of Parliament of the United Kingdom at the establishment of the Commonwealth. The language is such as to be apt to transfer to the House the full powers, privileges and immunities of the House of Commons. *As Lord Cairns has said, an essential ingredient, not a mere accident, in those powers, is the protection from the examination of the conclusion of the House expressed by the warrant.* (emphasis added)

We would mention that an application to the Privy Council for special leave to appeal against the judgment of the High Court was dismissed on the ground that the decision was 'unimpeachable': see p 171.

In the instant case, Parliament had by the two resolutions (which we have set out in full) expressed its judgment that the appellant was guilty of (i) abuse of the privileges of Parliament and (ii) contempt of the committee and of Parliament. These resolutions are conclusive. We quote below the following passage from the judgment of Dixon CJ, at p 169:

> The words of Lord Cairns on this aspect of the case may again be referred to, because they make clear what we are concerned with, namely, that the conclusiveness of the resolution [and] of the warrant is an important or essential part of the privileges of the House of Commons and not a mere accident or incident or matter of procedure.

For the reasons which we have given we are clearly of the opinion that the first defence which seeks to challenge the two resolutions of Parliament has no merit and must fail.

It is submitted by the appellant that Parliament must find its privileges and powers in the Constitution, which is the supreme law of the land, and the legislation passed, and not on lex et consuetudo Parliamenti of the United Kingdom. Section 3 of the Act confers on Parliament only a general power, whereas in the Act itself there are specific provisions as to how Parliament is entitled to proceed in respect of any alleged act of contempt. Generalia specialibus non derogant: general provisions do not derogate from special ones. Further, under the Constitution the judicial power of the Republic of Singapore is vested in the courts: see art 93, and accordingly, the courts may inquire into the legality of any act or decision of Parliament. In the instant case the decision of the committee is an exercise of judicial or quasi-judicial power and is therefore subject to judicial review. Hence the courts have jurisdiction to inquire and determine the legality of the decisions of the committee and Parliament.

In our view, this argument has no substance. The short answer is that Parliament is empowered under art 63 of the Constitution to pass, and did pass, the Act to determine and regulate its privileges, immunities and powers, and the Act expressly provides for the powers, privileges and immunities of Parliament. The same point was also raised by counsel before the High Court of Australia in *The Queen* v *Richards*.[4] There, it was argued that as the Constitution of Australia was a rigid Constitution based on a separation of powers and the judicial power was reposed exclusively in the court, s 49 of the Constitution should not be construed as having transferred to either House of Parliament any judicial power, and in particular, the power of punishment for contempt by committal to imprisonment belonged to the judicial power and should not be conceded to either House of Parliament in Australia. To this argument, Dixon CJ replied, at p 167:

> The consideration we have already mentioned is of necessity an answer to this contention, namely, that in unequivocal terms the powers of the House of Commons have been bestowed upon the House of Representatives. It should be added to that very simple statement that throughout the course of English history there has been a tendency to regard those powers as not strictly judicial but as belonging to the legislature, rather as something essential or, at any rate, proper for its protection. This is not the occasion to discuss the historical grounds upon which these powers and privileges attached to the House of Commons. It is sufficient to say that they were regarded by many authorities as proper incidents of the legislative function, notwithstanding the fact that considered more theoretically – perhaps one might even say, scientifically – they belong to the judicial sphere. But our decision is based upon the ground that a general view of the Constitution and the separation of powers is not a sufficient reason for giving to these words, which appear to us to be so clear, a restrictive or secondary meaning which they do not properly bear.

Likewise, here, the Act has in unequivocal terms bestowed upon Parliament the privileges or powers of the House of Commons of the United Kingdom to judge and punish for abuse of privilege and contempt.

In respect of the second defence raised in DC Suit No 11451 of 1987 the appellant advanced two arguments in the court below. The first, which was not argued before us, was that Parliament had no inherent power to punish for contempt whether it was committed within or without Parliament and he relied on *Kielley* v *Carson*,[5] *Fenton* v *Hampton*[6] and *Doyle* v *Falconer*.[7] In disposing of this argument and the three cases cited, the learned judge said (at pp 110-111 of the record of appeal):

> These three cases relied on by the defendant are entirely inapplicable to our present case. Section 20 of our Parliament (Privileges, Immunities and Powers) Act expressly confers upon Parliament the power to punish for contempt on the part of a member or a stranger. The three cases relied on by the defendant concerned the powers of subordinate colonial legislative assemblies that did not have the same exclusive privileges, immunities and powers which the ancient law of England had accorded to the British House of Commons because those colonial legislative assemblies were not granted the privileges, immunities and powers of the British House of Commons, including the power to punish for contempt, by any statutes or prerogative orders. If there were any statutes or prerogative orders which expressly gave the colonial legislative assemblies the same privileges, immunities and powers as that of the British House of Commons, this would be recognized by the courts. In *Doyle* v *Falconer* 16 ER 293, the Judicial Committee of the Privy Council said (p 299):
>
> 'It may also be possible to enlarge the existing privileges of the Assembly by an Act of the local legislature, passed with the consent of the Crown ... That extraordinary privileges of this kind, when regularly acquired, will be duly recognized here, is shown by the recent case of *Dill* v *Murphy* 15 ER 784.'

We are in entire agreement with the learned judge.

The appellant's second argument which was pressed on us is this. It is submitted that the publication of the five offending newsletters was not an offence committed in the view of Parliament or in the precincts thereof when Parliament is sitting or in any committee and does not come within s 21(1)(a) of the Act, and therefore Parliament cannot refer the matter to a committee under s 21(1)(b). If such publication is an offence it is one under s 31(h) of the Act, and Parliament must act under s 21(1)(c) and pass a resolution that the matter be referred to the Attorney General with a view to the institution of criminal proceedings. In other words, Parliament cannot deal with the complaint relating to the five offending newsletters in the way it did. The relevant sections referred to by the appellant are as follows:

> 21(1) If it is alleged or appears that any person has committed any offence mentioned in section 20, Parliament may –
>
> (a) if the offence is alleged to have been or has apparently been committed in the view of Parliament or in the precincts thereof when Parliament is sitting or in any committee, deal with the matter summarily, and, if satisfied that he is guilty of the offence, inflict all or any of the punishments provided in section 20;
> (b) refer the matter to any select committee for investigation, consideration and report to Parliament; or
> (c) if the offence is an offence mentioned in Part V, refer the matter to the Attorney General with a view to the institution of criminal proceedings against such person.
>
> 31 No person shall –
>
> ...
>
> (h) publish wilfully any false or perverted report or any writing containing a gross or scandalous misrepresentation of any debate or proceedings of Parliament, or of any speech of a Member in Parliament.

This argument, in our opinion, is misconceived. Section 21(1) does not apply to the complaint concerning the five offending newsletters because the offence was committed when neither Parliament nor the committee was sitting. The proper procedure, as has been invoked here, is that provided by Standing Order 95(7)(c) of Parliament which is as follows:

> Whenever Parliament is not sitting, a member may make a complaint in writing to the Speaker alleging a breach of privilege, and if the Speaker is satisfied that the matter complained of prima facie affects the privileges of Parliament and that it has been raised at the earliest opportunity, he shall refer such matter to the committee which shall report thereon to Parliament.

It was precisely pursuant to this Standing Order that the complaint was made to the Speaker who referred it to the committee.

We have no hesitation in rejecting the second defence; it has no merit. In our opinion, it is beyond argument that under s 20(1) of the Act, Parliament has power to impose the fines as it did on the appellant by way of punishment for abuse of privilege and contempt.

We now turn to the defence of breach of the rules of natural justice on the part of the committee and Parliament which was raised in both the suits. In each case the complaint against the appellant was made by the Leader of the House. The complaint of abuse of privilege which resulted in the fine of $1,000 was made by the Leader of the House in Parliament on 19 March 1986 and 30 July 1986 and was referred to the committee. Subsequently, on 19 August 1986, a memorandum setting out the complaints was submitted and a copy was transmitted to the appellant. The appellant himself appeared before the committee and participated in the proceedings and was heard. There was, therefore, no breach of the rules of natural justice. However, the appellant in his defence complained of the composition of the committee and further that he was denied an impartial and fair hearing before the committee; that he was not allowed to present adequately his case and was continuously interrupted and that he was not permitted to put a number of questions to the Chief Justice and to cross-examine the Attorney General. These complaints relate to the internal proceedings of the committee. Parliament and its committee have the right to regulate and control their proceedings and to regulate their internal affairs. Whatever arises in and concerning Parliament and its committee ought to be examined, discussed and adjudged in Parliament. Lord Coleridge CJ said in *Bradlaugh* v *Gossett*[8] at p 275:

> ... What is said or done within the walls of Parliament cannot be inquired into in a court of law. On this point all the judges in the two great cases which exhaust the learning on the subject, *Burdett* v *Abbot* 14 East 1, 148 and *Stockdale* v *Hansard* 9 Ad & E 1, are agreed, and are emphatic. The jurisdiction of the Houses over their own members, their right to impose discipline within their walls, is absolute and exclusive. To use the words of Lord Ellenborough, 'They would sink into utter contempt and inefficiency without it' 14 East 1 at p 152.

The second complaint relating to the five offending letters written by the appellant, which resulted in the fine of $25,000, was made to the Speaker of Parliament on 9 October 1986 and a copy of the complaint was referred to the appellant on 18 October 1986 and he was invited to give a reply thereto. On 10 November 1986 he wrote to the chairman of the committee a detailed reply to the complaint. The committee subsequently reported to Parliament on the two complaints against the appellant and on 27 January 1987 Parliament accepted the reports of the committee and passed the two resolutions. In these circumstances there was also no breach of the rules of natural justice. The appellant was given full opportunity of stating his case to the committee which he did. We agree with the learned judge that the rule of natural justice does not require that a hearing must be oral: see *Najar Singh* v *Government of Malaysia*.[9]

Lastly, the appellant complained that he was not given an opportunity to be heard by Parliament before the two resolutions were passed and cited in support ss 24 and 25 of the Act. These sections provide:

> 24 Parliament may order any person guilty of an offence to attend before Parliament to be informed of or to receive any punishment which Parliament has decided to inflict upon him.
>
> 25(1) An order to attend before Parliament to be informed of or to receive any punishment which Parliament has decided to inflict upon any person shall be notified to such person by a summons under the hand of the Clerk issued by the direction of the Speaker.
>
> (2) In every such summons there shall be stated the time when and the place where the person summoned is required to attend and the summons shall be served on the person mentioned therein either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in Singapore with some adult person.
>
> (3) The summons referred to in subsection (2) may be served by an officer of Parliament or by a police officer.

The two resolutions passed by Parliament represent judgments or adjudications by Parliament on the appellant, which were arrived at on the basis of the reports of the committee. Before the reports were presented to Parliament the committee gave to the appellant an opportunity to be heard, and he was heard. There is nothing in law to suggest that the appellant should be given another opportunity to be heard before the punishments were inflicted on him by Parliament. Sections 24 and 25 of the Act do not support the argument of the appellant. Section 24 emmpowers Parliament to summon a person 'guilty of an offence' to attend before Parliament to be informed of or to receive any punishment which Parliament 'has decided' to inflict upon him, and s 25 briefly sets out the procedure and manner in which such a person may be summoned to attend before Parliament. Parliament could pursuant to s 24 summon the appellant to attend before it to be informed of or to receive the punishments, if Parliament so wished; but in this case Parliament decided not to do so, and was clearly entitled so to decide.

In conclusion, we agree entirely with the following passage of the judgment of the learned judge (at pp 120-121 of the record of appeal):

> The issue raised by the defendant arose out of and relate entirely and directly to the internal proceedings of Parliament and involves the question how Parliament and its Committee of Privileges should regulate its own internal proceedings, matters beginning and terminating within the four walls of Parliament and which are clearly outside the jurisdiction of the courts. The defendant has failed to raise any triable issues or arguable issues which the courts have jurisdiction to try and the plaintiff is entitled to judgment.

For the reasons given above, we dismiss the appeal with costs. There will be the usual consequential order for payment to the respondent the amount deposited by the appellant as security for costs.

Appeal dismissed.

Reported by *PS Ranjan*

Chew Ming Teck v Collector of Land Revenue & Anor

COURT OF APPEAL (SINGAPORE) – CASE STATED NO 1 OF 1988
LAI KEW CHAI, CHAN SEK KEONG AND CHUA JJ
1 DECEMBER 1988

Land Law – Compulsory acquisition – Agreement for lease between second respondents and appellant – Grant of lease to appellant contingent upon appellant vacating sitting tenants and erecting covenanted buildings – Subsequent compulsory acquisition of land by government – Award of $1 nominal value by Collector of Land Revenue for appellant's interest – Appeal against Collector's award – Whether appellant's contingent interest in land quantifiable and capable of being valued on a realistic basis

Land Law – Compulsory acquisition – Hearing of appeal before Land Appeals Board – Whether Collector of Revenue had locus standi to appear – Land Acquisition Act (Cap 152, 1985 Ed), s 25

This is a case stated for the opinion of the court pursuant to s 30(2) of the Land Acquisition Act (Cap 152, 1985 Ed) ('the Act'). The second respondents ('the trustees') were the leaseholders of a piece of land and the appellant was a prospective developer of the land with a building sublease from the trustees. On the land were some semi-permanent shophouses in a poor state of repair which were occupied and were being built before 1947. The sublease was for an initial period of five years during which the appellant covenanted, inter alia, to negotiate, settle and pay compensation to all sitting tenants to his own account, demolish the existing buildings and redevelop the land in accordance with the terms of the sublease. The trustees covenanted that upon the completion of the new buildings they would grant to the appellant a lease of 30 years commencing from the date of completion with two options of 30 years each. The appellant then applied to the competent authority for planning permission to erect a shopping centre/office on the land. This application was rejected by the competent authority. By a declaration published in the Government Gazette Extraordinary of 29 June 1970, notice was given of the government's intended acquisition of the land. The Collector of Land Revenue ('the Collector') subsequently made his award dated 6 June 1977 in the sum of $511,650 and apportioned $1 as the value of the appellant's interest in the land. The appellant filed a petition of appeal to the Land Appeals Board ('the Board') on the following issues: (a) whether the Collector had locus standi to appear before the Board in an appeal against apportionment and (b) whether the Collector was correct in law in concluding that the appellant's interest in the land was nominal only and therefore correctly apportioned at $1. At the conclusion of the hearing, the Board ruled that the Collector had locus standi in the proceedings and that the apportionment of the Collector was correct. The question for the court to determine is whether the order of the Board is correct. The appellant contended that